

Feds threaten Oregon over sanctuary

Grant funding at stake in fight

By **PARIS ACHEN**
Capital Bureau

SALEM — The U.S. Department of Justice has threatened to subpoena local officials and confiscate federal criminal justice funding from Oregon and 22 other jurisdictions if they continue to refuse to assist authorities in enforcing federal immigration law.

The letter was sent to the states of Oregon, California and Illinois and certain cities and counties in those three states and in the states of Kentucky, Florida, Mississippi, Massachusetts, New York, New Mexico, Vermont and Colorado.

Federal authorities contend that the jurisdictions' policies may violate federal law and conditions of Edward Byrne Memorial Justice Assistance Grant funding, a primary source of federal funding for state and local law enforcement agencies, including police and sheriff's departments.

Oregon law prohibits law enforcement officers from sharing information with



Department of Justice
U.S. Attorney General Jeff Sessions is critical of cities and states, including Oregon, that adopt immigration sanctuary policies.

federal authorities or using state resources to help with the apprehension of undocumented residents in the state.

Gov. Kate Brown defended the state's sanctuary laws and said she would uphold them.

"Oregon will not be bullied by a Trump administration that is focused on dividing our country," Brown said in a statement. "Oregon's laws are in place to uphold the civil rights of all Oregonians, and the federal government cannot, under the U.S. Constitution, force state

law enforcement officers to implement the policies of this administration."

Federal officials remain concerned that Oregon's laws, policies and practices may violate conditions of federal grant funding, Jon Adler, director of the U.S. Bureau of Justice Assistance, wrote in a letter Wednesday.

Adler requested that state officials send the Department of Justice several documents related to the state's sanctuary status by Feb. 23.

"The department fully

anticipates your complete cooperation in this matter," Adler wrote. "Should you fail to respond in a complete and timely manner, the department will subpoena these documents ..."

If the state refuses to provide the documents, Adler threatened to seek the return of all Edward Byrne Memorial Justice Assistance Grant funding awarded to the state in 2016 and deem the state ineligible to receive funding for the current year. Oregon receives about \$4 million in Byrne Justice Assistance Grant funding every two years, according to the governor's office.

New requirements of the grants bar local governments from enacting laws that restrict communication with federal authorities about individuals' citizenship status.

U.S. Attorney General Jeff Sessions has said that sanctuary policies jeopardize the safety of Americans.

"Jurisdictions that adopt so-called 'sanctuary policies' also adopt the view that the protection of criminal aliens is more important than the protection of law-abiding citizens and of the rule of law," he said in a statement in November.

Man who slammed young son against door jamb going to prison for 7½ years

By **JACK HEFFERNAN**
The Daily Astorian

A man who rammed his young son's head into a door jamb in 2016 was sentenced Wednesday to 7 1/2 years in prison after violating probation.

The boy was 1 year old when the crime was committed. Nathan Anthony Fitzgerald wanted to punish his son because he was upset that the child spilled ranch dressing on him, Deputy District Attorney Dawn Buzzard said.

Fitzgerald, 28, was convicted last summer of second-degree assault and attempt to commit a Class B felony in connection with the case. Fitzgerald was later sentenced to 60 months of probation for the assault charge but agreed — as part of a plea deal with the district attorney's office — to a 7 1/2-year prison sentence if he violated probation.

Fitzgerald's most recent known address is in Scappoose. During an appointment with the Columbia County Department of Community Justice in October, he walked out after being told he needed to provide a urine sample, according to court documents. A warrant was later issued for his arrest.

The second charge for which he was convicted — originally attempted assault — was based on another incident in 2016. Fitzgerald covered the child's mouth with his hand, attempting to impede his breathing after he began making noise. Fitzgerald was sentenced to eight months in jail for that conviction.

Fitzgerald originally was also charged with third-de-



Nathan Anthony Fitzgerald

gree assault — for assaulting a child under the age of 10 — and strangulation before agreeing to the plea deal. Based on witness testimony and the injuries sustained by the child, officials believe Fitzgerald also covered his mouth with a pillow in a separate incident, Buzzard said.

The man's wife, who witnessed the incidents, discussed what she saw with her friend, an off-duty nurse. "It's difficult sometimes for people to talk to police about crimes committed by their spouses," Buzzard said.

Following state law, the nurse reported the incidents to the Department of Human Services, Buzzard said. When representatives from the department spoke to Fitzgerald, he said a mark on the child's forehead sustained in the attack was only a rash.

"They see a lot of things and get lied to a lot, but this could have ended badly," Buzzard said.

But after hearing about the case, Seaside Detective Guy Knight interviewed Fitzgerald's wife, who then detailed the crimes. By June of 2016, Fitzgerald was indicted.

"It's a pretty extraordinary case," Buzzard said. "Without Detective Guy Knight following up on it, we could have ended up with a dead kid."

Audit: Oregon 'must do more' disaster prep

By **CLAIRE WITHYCOMBE**
Capital Bureau

SALEM — Oregon lacks enough staff, planning and accountability to effectively handle a catastrophic disaster such as the looming Cascadia earthquake, state auditors found.

"Officials at all levels of state government have begun laying the necessary foundation, but these efforts have not gone far enough to fully protect Oregon from the worst-case scenario," auditors wrote. "... Too many basic elements for a well-functioning program are still missing."

Oregon is at risk of both recurring disasters, such as flooding and wildfires, as well as catastrophic disasters, such as an act of terror or volcanic eruption.

And scientists have said in recent years that there is now a higher probability that a high-magnitude earthquake — referred to as a Cascadia Subduction Zone event — will strike Oregon, Washington state and British Columbia in the next 50 years.

The state's Office of Emergency Management and the governor's office are responsible for coordinating and managing Oregon's response to a natural disaster or other large-scale emergency.

Other state agencies and local governments also play a role. State agencies have been designated to support the Office of Emergency Management, and each county is required by state law to have an emergency management program. Cities can also "opt in" to the program. However, the audit also found that these entities'



Danny Miller/The Daily Astorian

A state audit found the state has failed to correct gaps identified during Cascadia Rising, a 2016 emergency response drill.

preparedness for an emergency were insufficient.

The Oregon Secretary of State's Office, in an audit released Thursday morning, laid out a slate of ways the state could improve.

Here's what auditors found:

- Oregon's emergency management program doesn't meet basic federal standards. That means top officials will not have all the information they need to respond to a disaster, and that the state may miss out on millions of dollars in federal emergency response funding.

- The state has failed to correct gaps identified during a 2016 emergency response drill, Cascadia Rising, that was meant to evaluate the state's emergency response effort to a simulated Cascadia earthquake and tsunami. Since the plan is incomplete, "the public has no assurance

that Oregon will take steps to resolve deficiencies identified in the exercise."

- There's not enough emergency management staff. Previous requests for more staff haven't been filled by the Legislature, and the lack of staff hampers the Office of Emergency's Management's ability to do its job.

- State emergency response buildings are not seismically sound. While some buildings, such as the military department's Anderson Readiness Center, are being retrofitted, and backup buildings have been identified, the state's emergency management office hasn't practiced operating from the backup sites, some of which aren't seismically sound, either.

- A 50-year resilience plan, created in 2013 to address the state's ability to respond to a catastrophic disaster, doesn't contain strong enough

accountability measures to ensure that progress is made. The state also has a dedicated state resilience officer, who auditors said would benefit from more "long-term strategies, tracking, public reporting and clearly defined roles and responsibilities" as well.

Unless the state takes steps to improve these emergency preparedness measures, state auditors are warning that "the effects of a catastrophic event could be even more severe."

The state's Office of Emergency Management and the office of Gov. Kate Brown largely concurred with auditors' recommendations. Brown, however, said in a letter to auditors that the responsibilities of the state resilience officer were already clearly defined.

The Capital Bureau is a collaboration between EO Media Group and Pamplin Media Group.

Judge refuses to dismiss \$1 billion timber class action filed by counties

By **MATEUSZ PERKOWSKI**
Capital Press

A judge has refused to dismiss a class-action lawsuit seeking more than \$1 billion from Oregon's government for insufficient logging of state forestlands.

Linn County filed a complaint in 2016 accusing Oregon's forest managers of breaching a contract to maximize timber harvests from forests donated to the state by county governments.

According to the lawsuit, Oregon began prioritizing environmental protection and recreational values over logging due to a policy change in 1998.

The lawsuit was certified as a class action by Linn County Circuit Judge Dan-

iel Murphy, which effectively included 14 counties and more than 100 taxing districts as plaintiffs in the case. Clatsop County commissioners voted to opt out of the lawsuit.

Attorneys for Oregon raised several grounds for dismissing the lawsuit that have now been rejected by Murphy.

The judge has ruled against the state on a particularly controversial point that's resurfaced several times during the litigation: Whether the doctrine of sovereign immunity prohibits county governments from suing the state.

Initially, Murphy allowed the case to proceed despite the state's sovereign immunity claim, but later issued a ruling that it's a valid defense.

The judge withdrew that opinion and has now again

rejected Oregon's motion to dismiss, referencing his original ruling that counties can enforce their contract rights against the state government in court under these circumstances.

"He's back to where he's historically been in the case," said John DiLorenzo, attorney for the county plaintiffs.

As part of the ruling, the judge also threw out Oregon's argument that counties can't seek to "maximize timber revenues" because that term wasn't included in their contracts.

Oregon's government is required to manage the forestland for the "greatest permanent value," but this term is ambiguous and may be interpreted based on the circumstances under which the contract was made, Murphy said.

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